

AMENDED IN SENATE MAY 16, 2006

AMENDED IN SENATE MAY 4, 2006

AMENDED IN SENATE MAY 1, 2006

AMENDED IN SENATE MARCH 21, 2006

SENATE BILL

No. 1311

Introduced by Senator Soto

February 16, 2006

An act relating to liability waivers.

LEGISLATIVE COUNSEL'S DIGEST

SB 1311, as amended, Soto. Liability waivers.

Existing law provides that everyone is responsible for the result of willful acts and for injury to another occasioned by his or her want of ordinary care or skill in the management of his or her person or property, as specified.

This bill would declare the intent of the Legislature to require the President of the State Bar of California to appoint a task force to study and report to the Legislature possible statutory protections that can be enacted to prevent a settlement, waiver, or liability release that is not knowingly and intelligently made by an unrepresented tort victim because of miscommunication or misinterpretation of the terms of the settlement, waiver, or liability release where the negotiations were conducted in whole or in part in a language in which the victim was not proficient.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. (a) The Legislature finds and declares that if
2 negotiations are conducted in whole or in part to settle or
3 otherwise obtain a waiver or liability release of a potential tort
4 claim from an unrepresented tort victim in a language in which
5 the victim is not proficient, an unintended settlement, waiver, or
6 liability release can result from miscommunication or
7 misinterpretation of the terms of the settlement, waiver, or
8 liability release. Therefore, it is the intent of the Legislature to
9 require the President of the State Bar of California to appoint a
10 task force to study and report to the Legislature possible statutory
11 protections that can be enacted to prevent a settlement, waiver, or
12 liability release that is not knowingly and intelligently made by
13 an unrepresented tort victim because of miscommunication or
14 misinterpretation of the terms of the settlement, waiver, or
15 liability release where the negotiations were conducted in whole
16 or in part in a language in which the victim was not proficient.

17 (b) Appointments to the task force shall include
18 representatives from the State Bar Office of Legal Services,
19 *Access and Fairness Programs*, the Commission on Access to
20 Justice, the State Chamber of Commerce, a property and casualty
21 insurer in California, the Mexican American Legal Defense and
22 Educational Fund, the Asian Law Caucus, and the Chairs of the
23 Senate and Assembly Committees on Judiciary or their
24 designees.